

## **Remarks/Arguments**

### **Amendments to Claim 10**

Applicant courteously submits that Claim 10 has been amended to recite the limitations of the original claim as filed in International Patent Application No. PCT/EP2004/051739, *i.e.*, the priority document for the instant application. Applicant respectfully asserts that amended Claim 10 falls within Group III and Species B as set forth in the instant Office Action.

### **Restriction Requirement**

The Examiner has asserted that the instant application contains four distinct inventions, *i.e.*, Group I (Claims 2-3), drawn to an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular wavelength(s) technical features; Group II (Claims 4-8 and 18-20), drawn to an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular dispersive element technical features; Group III (Claims 9-14 and 20-23), drawn to an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular microstructured technical features; and, Group IV (Claims 15-17), drawn to a microscope comprising an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular microscope technical features. The Examiner has acknowledged that Claim 1 is generic and will be examined along with any one of the elected Groups I-IV.

Applicant courteously submits that the instant Restriction Requirement contains an error. Claim 20 has been included in both Groups II and III. As Claim 20 depends from Claim 8, and Claim 8 is included in Group II, Applicant assumes that Claim 20 is part of Group II and not part of Group III.

Applicant hereby elects Group III (Claims 9-14 and 21-23), drawn to an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular microstructured technical features, for examination without traverse, and Applicant hereby withdraws from consideration Group I (Claims 2-3), drawn to an optical device comprising a

dispersive element, an imaging optic, and a microstructured element with particular wavelength(s) technical features, Group II (Claims 4-8 and 18-20), drawn to an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular dispersive element technical features, and Group IV (Claims 15-17), drawn to a microscope comprising an optical device comprising a dispersive element, an imaging optic, and a microstructured element with particular microscope technical features.

#### Election of Species

The Examiner has asserted that the application contains claims directed to three patentably distinct species, *i.e.*, a microstructured element species depicted by Figure 2, a microstructured element species depicted by Figure 3 and a microstructured element species depicted by Figure 4. Thus, the Examiner has required the election of a specific microstructured element species.

Applicant hereby elects Species B consisting of the microstructured species depicted by Figure 3 and corresponding to Claims 10-12, for examination without traverse. Applicant hereby withdraws Species A and C consisting of the microstructured species depicted by Figure 2 and 4, respectively, and corresponding to Claims 9 and 13-14, respectively.

In view of the foregoing, Applicant hereby elects Group III and Species B thereby resulting in the election of Claims 1, 10-12 and 21-23.

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**Conclusion**

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

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